



THE CITY OF SAN DIEGO
MANAGER'S REPORT

DATE ISSUED: November 3, 2004 REPORT NO. 04-240

ATTENTION: Committee on Land Use and Housing
Agenda of November 10, 2004

SUBJECT: California Environmental Quality Act (CEQA) Significance Determination
Thresholds

REFERENCE: Committee on Land Use and Housing Meetings of May 1, 2002, August 6,
2003, and May 19, 2004

SUMMARY

Issues -

Should the Committee on Land Use and Housing recommend that City Council approve the revisions to the City's Significance Determination Thresholds, Appendix A of the Land Development Manual?

Manager's Recommendations -

1. Recommend that the City Council approve the amendment to Appendix A of the City's Land Development Manual and revise the Significance Determination Guidelines as proposed by staff (Attachment 1).
2. Recommend that the Committee on Land Use and Housing direct staff to prepare a revision to the Land Development Code that incorporates a new finding (Attachment 2) into all development permits as defined in the Land Development Code. The finding will require a determination by the Police and Fire-Rescue departments that approval of the proposed development will not substantially affect Police or Fire-Rescue response times for these development projects.

Other Recommendations –

1. Development Services Technical Advisory Committee – On May 12, 2004, the Development Services Technical Advisory Committee voted to recommend that no revisions to the thresholds occur unless such revisions were mandated by state or federal law.
2. Planning Commission – At a public hearing on October 14, 2004, following two workshops, the Planning Commission voted on two separate motions: 3-3 on whether to include Police and Fire-Rescue response times in the significance thresholds (no action on the permit finding recommendation) and 5-1 in favor of the balance of the current staff proposal.
3. Community Planners Committee – At its October 26 meeting, the Community Planners Committee voted on two separate motions. The first vote was 12-6 in favor of not including service levels of parks, schools, and libraries in the significance thresholds but requiring a discussion/disclosure of these service levels and a discussion/disclosure of existing and planned residential units compared to those proposed in a project to be provided in all CEQA documents. The second vote was 11-7 against including Police and Fire-Rescue response times in the significance thresholds (no action on the permit finding recommendation).

Housing Affordability Impact - The significance thresholds would apply equally to all projects. The degree of CEQA review and, therefore, project processing timelines and associated costs may increase for those projects which require preparation of an Environmental Impact Report or Mitigated Negative Declaration as opposed to a Negative Declaration or Exemption. New thresholds associated with Transportation/Circulation (proposed) and Police and Fire-Rescue response times (not proposed) could require preparation of an EIR rather than a different document for affordable housing projects.

Fiscal Impact - None with the recommended action. Evaluating Police and Fire-Rescue response times via the CEQA thresholds would require additional, as-yet-undefined staff in the Police Department and 1.0 Full Time Plans Officer in the Fire-Rescue Department. Evaluating response times via a permit finding would require additional, as-yet-undefined staff in the Police Department and 1.0 Full Time Plans Officer and 1.0 Full Time Fire Inspector II in the Development Services Department.

BACKGROUND

Under the direction of the Development Services Department Director, the Environmental Analysis Section (EAS) of the Land Development Review Division in the Development Services Department is responsible for implementing CEQA on behalf of the City of San Diego. One of the tools used by EAS to evaluate development project impacts is the “Significance Determination

Thresholds”, which provide consistent guidance to staff as to when projects are considered to have significant environmental impacts. Thresholds do not substitute for the agency’s use of careful judgment in determining significance and they do not replace the legal standard for significance (i.e., if there is a fair argument, based on substantial evidence, in light of the whole record that a project may have a significant effect, the effect should be considered significant). Significance thresholds are intended to supplement other provisions in CEQA for determining significant environmental effects.

The City’s “CEQA Guidelines” were added to the Land Development Manual, Appendix A in January 2000 by City Council as part of the Land Development Code update. As part of the Land Development Manual, the proposed revisions to the guidelines are subject to the process for a “Major Amendment”. Therefore, staff distributed the proposed revisions to 290 organizations and individuals for a 30-day public review period (March 1 – 30, 2004). Twenty comment letters were received.

At its May 19, 2004 meeting, LU&H voted to direct the City Manager to present the proposed CEQA “Significance Determination Thresholds” to the Planning Commission and the Community Planners Committee (CPC) and to return to the Land Use and Housing Committee by the end of 2004; and further directed the City Manager to make recommendations regarding the issues presented by Councilmember Frye. As described above, staff has solicited input from the Planning Commission and Community Planners Committee. Moreover, staff has worked with various external stakeholders over the past months and has updated the department’s website with current reports and recommendations. Responses to the issues presented by Councilmember Frye have been posted on the web site and shared with the Planning Commission and the general public.

DISCUSSION

Staff recommends approval of the revised Significance Determination Thresholds in accordance with Section 15064.7 of the State CEQA Guidelines. In its May 19, 2004 presentation to LU&H, staff highlighted what it felt would be the four most controversial issues associated with the proposed revisions. Following is a summary of the status of those issues:

1. Air Quality – The Building Industry Association (BIA) has been the only commenter on this issue area and has provided consistent testimony to staff and at Planning Commission. The BIA does not believe that projects should be evaluated for their contributions to cumulative air quality impacts. Staff believes that it has not proposed any changes to the way Air Quality impacts have historically been evaluated; rather, the section was changed only to refer to new Air Pollution Control District standards. The Planning Commission and CPC both support the staff proposal.
2. As a result of research conducted in conjunction with the Environmental Impact Report (EIR) prepared for revisions to the Brush Management regulations, a Subsequent EIR to the EIR prepared for the adoption of the Land Development Code (LDC), staff concluded

that on-the-ground impacts to biological resources from brush management activities are significant due to weed invasion. After release of the draft Subsequent EIR, staff re-evaluated the conclusions of the LDC EIR and determined that LDC EIR intended to identify as significant and unmitigated only those brush management activities which occur outside the Multi-Habitat Preserve Area and which impact sensitive, non-covered species.

The thresholds have been revised to be consistent with the Final EIR for the Brush Management Regulations and additional controversy is not expected. Neither the Planning Commission nor the CPC commented on this issue.

3. Transportation/Circulation - The BIA is also opposed to the staff proposal to reduce by half the significance thresholds for traffic impacts to Level of Service F transportation facilities. Staff believes that this change is appropriate to respond to the *Communities for a Better Environment* court case which indicates that significance thresholds should be lower where the impacted resource is in worse condition. Although staff has not proposed any changes to the way it evaluates impacts to metered freeway ramps, the BIA does not believe that projects should be evaluated for this impact.
4. Public Services and Facilities –
 - a. Police and Fire-Rescue Response Times – Staff continues to believe, while CEQA would allow the City to evaluate Police and Fire-Rescue response times in CEQA documents, that the CEQA process is not an appropriate vehicle for doing so because it is relatively cumbersome, expensive, and time-consuming. Staff still recommends addressing this issue via community planning rather than on a project-by-project basis; however, staff also believes that a permit finding would also be a more appropriate method than CEQA to address this issue. A permit finding would result in the same issue analysis and mitigation, is a more straightforward process and, unlike the CEQA process, does not allow a project with significant impacts to be approved. As indicated above, the Planning Commission voted 3-3 on this issue and the CPC recommends 11-7 to not address this issue in the significance thresholds. If it is decided to add the threshold, staff recommends that projects of less than 75 dwelling units and/or 100,000 square feet of non-residential space not be considered for potentially significant impacts.
 - b. Park, Library, and School Impacts – Staff continues to believe that impacts to the service levels of these facilities are social and/or economic impacts, not physical impacts. Absent a related physical effect, CEQA does not allow the City to determine that social or economic impacts are “significant” under CEQA. As indicated above, the Planning Commission and the CPC support the staff position on this issue; however, CPC would like for CEQA documents to include a discussion of the service levels for these facilities as well as Police and Fire-Rescue response times. Moreover, for residential projects, CPC would like for CEQA documents to include an analysis to compare the number of existing and proposed residential units with those planned in the applicable community plan. Staff does

not believe that CEQA documents should be used to discuss existing conditions or impacts for issues that have no potential to be significant regardless of the impact level.

CONCLUSIONS:

In accordance with Section 15064.7 (b) of the CEQA Guidelines, if a public agency intends to adopt the thresholds, it must be done by ordinance, resolution, rule, or regulation, developed through a public review process and be supported by substantial evidence. The City Manager believes that the thresholds are supported by substantial evidence and recommends their adoption as discussed above.

ALTERNATIVES:

1. Recommend that City Council approve the City's Significance Determination Thresholds with revisions directed by LU&H.
2. Recommend that City Council approve the City's Significance Determination Thresholds with some or all of the revisions proposed by CPC.

Respectfully submitted,

Gary Halbert
Acting Development Services Director

Approved: George Loveland
Assistant City Manager

HALBERT/KB/CZ

Note: Attachments will be available for review in the Office of the City Clerk.

Attachments:

Proposed CEQA Significance Determination Thresholds

1. Proposed Permit Finding to Address Police and Fire-Rescue Response Times
2. Planning Commission staff report P-04-123 for the August 5, 2004 (actually heard on August 12, 2004) Planning Commission Workshop (with attachments provided to LU&H Committee members only due to size. Copies are available for review at the Development Services Department, 1222 First Avenue, San Diego, CA 92101.)*

3. Memo from Chris Zirkle to the Planning Commission dated September 8, 2004 for the September 16, 2004 Planning Commission Workshop (with attachments provided to LU&H Committee members only due to size. Copies are available for review at the Development Services Department, 1222 First Avenue, San Diego, CA 92101.)*
4. Planning Commission staff report P-04-186 for the October 14, 2004 Planning Commission Hearing (with attachments provided to LU&H Committee members only due to size. Copies are available for review at the Development Services Department, 1222 First Avenue, San Diego, CA 92101.)*

*The attachments to these reports do not include the thresholds that were proposed at the time of the hearing.